

REMARKS

Claim Amendments

Claims 1, 24, 25 and 28 have been amended. Claims 1-4, 17 and 21-32 are currently pending.

Claim 1 has been amended to recite that the wash station is for removing non-hybridized nucleic acids and that the arrays are in fluid communication with the vacuum-assisted wash station. Support for the amendment can be found, for example, at page 11, lines 10-11 and page 34, lines 10-13. Claim 1 has also been amended to correct punctuation errors.

Claims 24, 25 and 28 have been amended to further clarify that the recited features are limitations of the claimed product.

No new matter has been added.

Rejection of Claims 24-25 and 28-30 Under 35 U.S.C. § 112, Second Paragraph

Claims 24-25 and 28-30 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter that applicants regard as the invention. The Examiner states that claims 24-25 and 28-30 are vague and indefinite because it is unclear if the limitations in these claims are method steps or if they are limitations of the system.

Claims 24-25 and 28-30, as amended, each recite a functional limitation of an element of the claimed system. In other words, the elements recited in claims 24-25 and 28-30 are required to have particular properties. As such, there could be one or more specific structures that are compatible with the recited functional property. Applicants are aware of no requirement that an element of a product be limited solely by structure, as opposed to function. Thus, Applicants believe that there is no basis for continued rejection of claims 24-25 and 28-30, as amended. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 1-4, 17 and 24-31 Under 35 U.S.C. §§ 102(a) and 102(e)(1)

Claims 1-4, 17 and 24-31 are rejected under 35 U.S.C. §§ 102(a) and 102(e)(1) as being anticipated by Bass *et al.* (US 2001/0039014 A1).

Claim 1 has been amended to recite that the wash station is for removing non-hybridized nucleic acids and that the arrays are in fluid communication with the vacuum-assisted wash station. Bass *et al.* do not disclose a system that includes a vacuum-assisted wash station for removing non-hybridized nucleic acids that is in fluid contact with a plurality of arrays. Applicants note that arrays are defined at page 9, lines 21-22 of the instant application to be probes immobilized on a substrate. In paragraphs 0231-0233 of Bass *et al.*, the nucleic acids are not immobilized on a substrate and there is no evidence that a vacuum is used. Paragraphs 0483-0484 refer to a device for performing combinatorial shuffling of DNA, where there is no disclosure that washing is performed under vacuum. Moreover, the wash removes nucleic acids after denaturation, not hybridization. The disclosure of paragraphs 0288, 0402, 0549 and Figure 13 is not relevant to the claimed system, at least because any washing that is conducted does not involve an array (e.g., nucleic acids immobilized on a solid substrate). Thus, Bass *et al.* do not disclose every feature of the claimed invention, such that Bass *et al.* do not anticipate claims 1-4, 17 and 24-31. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 21-23 and 32 Under 35 U.S.C. §§ 103

Claims 1-4, 17 and 24-31 are rejected under 35 U.S.C. §§ 1023 as being obvious over Bass *et al.* (US 2001/0039014 A1) in view of Garner *et al.* (US 2003/0054388 A1) and Dong *et al.* (US 6,780,585 B1). The teachings of Garner *et al.* and Dong *et al.* do not remedy the deficiencies of Bass *et al.* that were discussed above. Thus, claims 21-23 and 32 are not *prima facie* obvious over the art of record. Reconsideration and withdrawal of the rejection are respectfully requested.

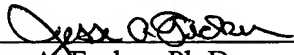
CONCLUSION

In view of the above amendments and remarks, Applicants believe the pending application is in condition for allowance.

Please charge any fees which may be due to our Deposit Account No. 18-1945, from which the undersigned is authorized to draw, under Order No. AFMX-P01-023.

Dated: January 30, 2006

Respectfully submitted,

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